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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,820	12/05/2003	Antonin A. Meibock	KORH-1-1003	8554

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EXAMINER.

KAVANAUGH, JOHN T

ART UNIT PAPER NUMBER

3728

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/729,820

Applicant(s)

MEIBOCK, ANTONIN A.

Examiner

Ted Kavanaugh

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 17, 19, 21, 26, 36, 38-40, 44, 45, 62, 64-66, 70, 71 and 80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5-10, 14-16, 18, 20, 22-25, 27-28, 33-35, 37, 41-43, 46, 50-55, 59-61, 63, 67, 68, 69, 72-79 is/are rejected.
- 7) ☒ Claim(s) 2-4, 11-13, 29-32, 47-49 and 56-58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

In addition to amending the claims being treated, applicant should also amend the withdrawn claims. Therefore, if a generic claims is allowed the withdrawn claims can be allowed to.

#### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,5-10,22,23,24,25,27-28,41,42,43,46,50-55,67,68,69,72-77 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6073370 (Okajima).

Okajima teaches footwear having a securing apparatus as claimed (see figures 13-17) including pivot members including rings (15) mounted on the footwear, a securing device having a strap member (122) with a plurality of end sections configured to curve around the rings and including a fastener receiving opening (130) to engage a lace fastener (L). Straps 111a,111b serve as the “heel strap” and “Achilles strap”; and also serve as the “retaining mechanism”. Figures 13-17 show several closures (i.e. the two straps and the lace).

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-16,18,20,33-35,37,59-61 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okajima '370 in view of US 6839985 (Bettiol).

Okajima teaches footwear as claimed except for a force distribution plate being semi-rigid and integral with the closure. Bettiol teaches a force distribution plate (reinforcement 16) being semi-rigid (see col. 4, line 25) and integral (see col. 4, lines 15-20) with the closure (the tongue). It would have been obvious to provide the footwear of Okajima with a plate, as taught by Bettiol, to protect the front face of the footwear. Regarding being removable, the reinforcement can be physically removed from the tongue.

5. Claims 78-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okajima '370 in view of US 3456366 (Boeing).

Okajima teaches footwear and a removable securing device as claimed except retaining device or a plurality of guides. Boeing teaches footwear having a plurality of retaining device/guides (17,19) to hold the strap in place. It would have been obvious to provide the footwear of Okajima, with a plurality of retaining devices/guides (17,19) to hold the strap in place.

#### ***Response to Arguments***

6. Applicant's arguments filed Sept. 22, 2005 have been fully considered but they are not persuasive.

Applicant argues Okajima doesn't teach a mechanism for maintaining the force member at a predetermined position inasmuch as the long strap is free to drift relative to the tongue.

To the contrary, the long strap wraps around the tongue and therefore when closed will secure the tongue in place.

Applicant argues Okajima only discloses one closure.

To the contrary, in addition to the lace the boot of Okajima has a long strap (111) closure and a shorter strap closure (110), see figure 13A.

*Allowable Subject Matter*

7. Claims 2-4, 11-13, 29-32, 47-49, 56-58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including:

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-“The reply must present arguments pointing out the *specific* distinctions believed to render the claims, including any newly presented claims, patentable over any applied references.”

--“A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.”

-Moreover, “The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06” MPEP 714.02. The “disclosure” includes the claims, the specification and the drawings.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Other useful information can be obtained at the PTO Home Page at [www.uspto.gov](http://www.uspto.gov).


In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (571) 273-8300 (**FORMAL FAXES ONLY**). Please identify Examiner Ted Kavanaugh of Art Unit 3728 at the top of your cover sheet.

Any inquiry concerning the MERITS of this examination from the examiner should be directed to Ted Kavanaugh whose telephone number is (571) 272-4556. The examiner can normally be reached from 6AM - 4PM.

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Ted Kavanaugh  
Primary Examiner  
Art Unit 3728

TK

October 3, 2005